



City of Seattle

Gregory J. Nickels, Mayor

Department of Design, Construction and Land Use

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CITY OF SEATTLE DETERMINATION OF NON-SIGNIFICANCE BY THE DEPARTMENT OF DESIGN, CONSTRUCTION AND LAND USE

Applicant Name: Office of Policy and Management, City of Seattle

Address of Proposal: Northgate Overlay District

SUMMARY OF PROPOSED ACTION

The proposal is to amend the Land Use Code to change sections pertaining to General Development Plan and open space requirements in the Northgate Overlay District.

The following approval is required:

SEPA - Chapter 25.05, Seattle Municipal Code.

City Council Action, Type V – Chapter 23.76, Seattle Municipal Code

SEPA DETERMINATION: ☐ Exempt ☒ DNS ☐ MDNS ☐ EIS

☐ DNS with conditions

☐ DNS involving non-exempt grading, or demolition,
or involving another agency with jurisdiction.

BACKGROUND DATA

Background

The Northgate Overlay District (SMC 23.71) establishes specific development standards and other requirements for properties located within its boundaries; the District is roughly bounded by NE 85th Street, NE 130th Street, Lake City Way, and Ashworth Avenue N. This Overlay District was derived from the 1993 Northgate Area Comprehensive Plan (NACP). City Council

action adopted and implemented various policies and guidelines from the NACP through Resolution 28752 and Ordinance 116770, and established the Northgate Overlay District through Ordinance 116795.

The Northgate Overlay District addresses several substantive areas of land use regulation. For example, it establishes Major Pedestrian Streets and other street designations within the Overlay District, and identifies allowed uses and development standards along these streets. It establishes Transportation Management Program requirements for projects generating a certain amount of traffic. It places open space requirements on commercially-zoned parcels, and identifies certain amounts and types of landscaped and usable open space that must be provided. For large sites, it establishes a General Development Plan requirement. The overall intent of these and other Overlay District code provisions is to create an environment in the Northgate Area that is more amenable to pedestrians and supportive of commercial development, protects the residential character of residential neighborhoods, and supports the use of Northgate as a regional high-capacity transportation center.

Proposal Description

The proposed amendment changes two sections of the Northgate Overlay District:

1. It removes the requirement for a General Development Plan.
2. It adds an option for a commercial development to meet the open space requirement by providing open space equal to 10% or 15% of the gross floor area being proposed (depending on the zoned height limit). Currently, new commercial development must provide open space equal to 10% or 15% of the lot area. In addition, the amendment would remove the requirement that any open space “deficit” be made up. The proposal also deletes a cross-reference to a state statute (RCW 82.02.020) regarding development fees.

Public Comments

Proposed changes to the Land Use Code require City Council approval. Public comment will be taken on the proposed amendments during future Council hearings.

ANALYSIS - SEPA

The initial disclosure of the potential impacts from this project was made in the environmental checklist dated April 1, 2003. The information in the checklist, a copy of the proposed text changes, the Director’s Report and Recommendation, and the experience of the lead agency with review of similar legislative actions form the basis for this analysis and decision.

Short-term Impacts

As a non-project action, the proposed amendment will not have any short-term impact on the environment. Future projects affected by this legislation and subject to SEPA will be required to address short-term impacts on the environment.

Long-term Impacts

The proposed changes to the Land Use Code would remove the General Development Plan requirement from the Northgate Overlay District, and alter the manner in which commercial development can meet open space requirements. These two changes are discussed separately below.

General Development Plan

As defined in SMC 23.71.024, a General Development Plan (GDP) is a conceptual plan for site development. A GDP is required for more than 4,000 square feet of commercial floor area on parcels of 6 acres or more; other proposed development on 6+ acre parcels also can trigger a GDP requirement. A GDP consists of eight components: structure layout, pedestrian circulation, vehicular circulation, parking and loading, transportation management, landscaping and open space, phasing, and topography and drainage. The contents of a draft GDP are reviewed by an Advisory Committee, constituted for each GDP and consisting of representatives of neighborhoods, the business community, property owners, and the applicant. The Advisory Committee may recommend suggested changes or additions to the draft GDP. Following approval of the GDP by DCLU, the applicant may develop in accordance with the approved plan, after having obtained development permits for the projects described in the GDP.

Removal of the GDP requirement would not alter any development standards within the Northgate Overlay District. Development would still be held to the same use restrictions and development standards that currently apply, other than the proposed change in open space requirements analyzed below. To some degree, regulations applying to development on large sites would become less flexible, as exceptions that could be granted through the GDP process (SMC 23.71.026) would no longer be available.

For the most part, projects large enough to trigger GDP requirements also would require SEPA review and, if new structures, design review. (The exceptions are rezones, administrative conditional use permits, and variances as specified in 23.71.020; it is likely that most such actions on large lots would be associated with development of more than 4,000 square feet, and thus would also require SEPA and Design Review.) Projects undergoing design review provide conceptual information through the early design guidance process, including information about site layout, vehicular and pedestrian circulation, landscaping and open space, and location of parking and loading facilities. At the MUP application stage, projects provide specific information on these elements. Both design review and SEPA provide opportunities for public review and comment on proposed projects.

The General Development Plan requires presentation of information in eight substantive areas. These substantive areas are largely duplicated in other information required of project applicants through the MUP process. Site plans, required at permit application, identify structure layout, parking, landscaping, on-site vehicular circulation, and topography and drainage, while

application of the Land Use Code and other codes will provide necessary information on open space, transportation management programs and other zoning requirements. In addition, design review guidelines address almost all of the eight substantive elements, particularly structure layout, landscaping and open space, and pedestrian circulation.

Existing application requirements, codes, and regulations require presentation of almost all information required as part of the GDP process. The primary substantive area not so covered is potential phasing of proposed development; MUP review typically addresses individual projects, not multiple phased projects. However, where phased projects are known, they can be reviewed under the MUP process without a conceptual plan requirement; such a review recently occurred for the multi-phase Schnitzer development in South Lake Union. A project proponent also can request consideration as a Major Phased Development (SMC 23.47.007). In addition, SEPA requires identification of phasing and cumulative impacts where these reasonably can be anticipated. There is no requirement that a property owner develop in phases under GDP regulations; nor, if the GDP is repealed, would there be such a requirement. Because phasing is voluntary in both cases, there is little likelihood that repealing the phasing provision of the GDP will lead to an adverse SEPA impact. Given the requirement for disclosure of information about individual projects during the permit review process, cumulative impact analysis pursuant to SEPA, and the availability of the Major Phased Development review, the lack of information regarding anticipated phasing for a large site development through the GDP process would not be likely to lead to an adverse SEPA impact.

Open Space

The proposed modifications to the open space requirements in the Northgate Overlay District would provide an option for calculating required open space so that, in addition to using the overall lot area as the basis, the square footage of the proposed development could also be used. These code modifications would not change the amount of open space required if an entire site is redeveloped. Moreover, if the total square footage of development exceeded the lot area, as could happen on sites with multistory structures, the gross floor area basis could result in greater open space than the lot area basis.

Under the proposed code change, less open space would be required if a property owner chose to develop only a portion of a site, such that the new square footage was less than the lot area. In addition, sites currently nonconforming with respect to amounts of open space could continue to be nonconforming. However, any new development on the site would need to meet the 10% or 15% requirement based on the new gross floor area. If additional development occurred on the site over time, the amount of open space provided would approach or reach 10% or 15% of the lot area. Even on sites that are only partially developed, the amount of open space provided would increase over existing conditions. The proposed Code changes are intended to encourage development in the Northgate area. As development occurs, more, not less, open space will be provided than currently exists.

It is possible, in certain circumstances, a site might develop less open space under the new code provision than would have resulted if lot area were the only basis for calculating required open space. Anticipation of this situation depends on both short- and long-term development

intentions, which are based on market conditions and are speculative, particularly further into the future.

Outside of the Northgate Overlay District, no commercial development in the City is required to provide open space. Residential open space is required, in both mixed-use and single-purpose residential structures. In certain downtown zones, office developments greater than 85,000 square feet must provide 20 square feet for every 1,000 square feet of gross office floor area; this is equivalent to 2% of the developed area. Office space outside downtown is not required to provide open space. Even with the proposed code change, commercial development in the Northgate Overlay District will be almost unique in the City in providing non-residential open space, and will be required to provide a much higher relative proportion than any other non-residential projects in the City.

Analysis of the City's Comprehensive Plan goals indicates that the Northgate Urban Center exceeds its Urban Center residential open space goal for the year 2014. The Northgate Urban Center also is closer to meeting the Urban Center open space distribution goal (i.e., providing open space within one-eighth mile of all locations) than all but one other Center. Incremental provision of additional open space will only increase the extent to which the Northgate Urban Center exceeds its targeted amount of open space, and may also help the Center achieve its open space distribution goal.

It is unlikely that providing open space incrementally, as allowed under the optional provision, would create an adverse open space impact under SEPA. On the contrary, development consistent with the revised code changes would provide noticeable increases in open space, and likely would produce a positive impact on the site and possibly also on the surrounding community. Impacts related to specific projects will be evaluated at the time of individual project MUP review.

The modifications also would remove the current requirement that sites must make up any open space deficit when a substantial development (more than 4,000 square feet) is proposed. The Land Use Code recognizes the concept of a "deficit" as a nonconformity to development standards; in this case, the development standard of quantity of open space. However, requiring that a nonconformity with respect to a development standard be completely eliminated upon 4,000 square feet of development is inconsistent with the intent of the Land Use Code, as stated in SMC 23.432.100. That section describes the intent of the Code's nonconforming provisions as "allowing most nonconformities to continue. The Code facilitates the maintenance and enhancement of nonconforming uses and developments so that they may exist as an asset to their neighborhoods. The redevelopment of nonconformities to be more conforming to the current code standards is a long term goal".

For example, surface parking between the street and front building façade is a nonconforming condition in Neighborhood Commercial zones. If a property that had parking along 100% of its streetfront proposed replacing half of the parking area with a structure, the amount of nonconforming parking would be reduced, but not eliminated. Application of the Land Use Code would not compel the owner of the property to remove the remaining nonconforming parking; the nonconformity could continue, although it could not be expanded or extended.

Therefore, the deficit section in the Northgate Overlay District is inconsistent because it does not allow nonconformities to be gradually eliminated. By repealing this section, the nonconformity, or deficit, will be addressed as development occurs and more open space is provided, either by the lot-area calculation or by the gross-floor-area calculation. As new development provides new open space, the amount of open space provided on-site will become less nonconforming. The proposed repeal of the deficit reduction requirement also is intended to make the open space regulation more consistent with legal requirements.

A correction also is made to 23.71.014 A8, with the phrase “the payment and use thereof shall be consistent with RCW 82.02.020” being struck. To the extent that the cited statute otherwise applies, reference to its possible application is duplicative and unnecessary. Changing interpretations of the statute also make its potential application uncertain, and therefore reference to the statute may be misleading or confusing to the public.

Comprehensive/Neighborhood Plans

Although the General Development Plan and the lot area-based open space concepts are included in the Northgate Area Comprehensive Plan that was proposed to the City Council (Policy 13 and Implementation Guideline 12.2, respectively), they are not part of the officially-adopted NACP as established by the City Council in Resolution 28752 and Ordinance 116770. As such, modifying or repealing these sections of the Land Use Code is not incompatible with the NACP.

Conclusion

The proposed code changes are not likely to result in significant adverse environmental impacts. The repeal of the GDP would eliminate an additional procedural requirement, but would not change development standards or substantive requirements of project review.

Modification of the open space requirements would facilitate incremental development of large sites in the Northgate area, while ensuring that substantial amounts of open space will be provided in proportion to the amount of development proposed. No significant adverse impact will result from establishing a proportional relationship between the amount of development proposed and the amount of open space provided.

DECISION – SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirements of the State Environmental Policy Act (RCW 43.21C), including the requirement to inform the public agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030 2c.
- [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030 2c.

RECOMMENDED CONDITIONS – SEPA

None.

Signature: (signature on file) Date: May 22, 2003
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